

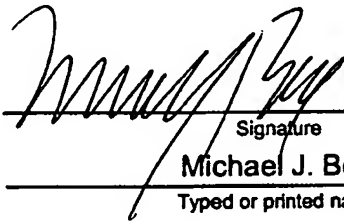
Doc Code: AP.PRE.REQ



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PTO/SB/33 (07-05)

Approved for use through xx/xx/200x. OMB 0651-00xx
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 01638.0014.NPUS01	
<p>I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]</p> <p>on _____</p> <p>Signature _____</p> <p>Typed or printed name _____</p>		Application Number 10/799,810	Filed February 18, 2004
		First Named Inventor George PLESTER	
		Art Unit 3721	Examiner Thanh K. Truong
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <div><div><p>I am the</p><p><input type="checkbox"/> applicant/inventor.</p><p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p><p><input checked="" type="checkbox"/> attorney or agent of record. 39,604 Registration number _____</p><p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</p></div><div><p> Signature Michael J. Bell Typed or printed name 202.383.6500 Telephone number January 14, 2008 Date</p></div></div> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.</p> <p><input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.</p>			

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

George PLESTER

779810

Appl. No. 10/799,810

Filed: February 18, 2004

For: **SYSTEM AND METHOD FOR
ASEPTIC FILLING OF PACKAGES
WITH LIQUID PRODUCTS**

Confirmation No. 6837

Art Unit: 3721

Examiner: Thanh K. Truong

Atty. Docket: 01638.0014.NPUS01

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants request review of the Final Office Action in the above-identified application pursuant to the OG Notice of 12 July 2005. Applicants believe the Final Office Action includes clear errors in the rejections and omissions of elements that result in a clear deficiency in the *prima facie* case in support of the rejection. The errors and omissions included within the scope of appealable matters. Further, the errors and omissions are based on the legal and factual basis of the rejection. Some of the errors and omissions are discussed below.

Currently, Claims 1-19, 66, 68 and 71-72 are pending with Claims 1, 71 and 72 being independent. All of the pending claims were finally rejected on July 12, 2007.

With respect to Claim 1, the first independent claim, at least one clear omission rendering deficient the *prima facie* case in support of the rejection is the missing limitation of "without displacing the package to another location." As explained in prior responses (April 3, 2007: pages 8-9; August 16, 2007: page 7), the prior art does not disclose or suggest without displacing the package. The claim was amended to further clarify that a single location is being

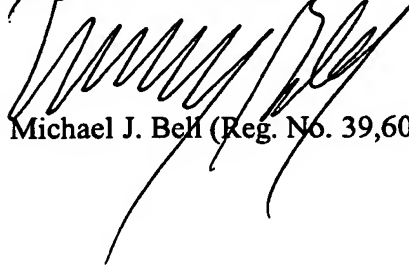
claimed. The prior art discloses at least two locations, D and E, and the Examiner cannot consider these locations as a single location (Final Office Action dated July 12, 2007: bottom of page 2) when the prior art clearly identified two locations. *See also*, the Response of August 16, 2007, at the bottom of page 7.

With respect to the second independent claim, Claim 71, at least one clear omission is the missing limitation of "consisting of essentially of one opening, the opening being a filling aperture." Again, as discussed in prior responses (April 3, 2007: page 9; August 16, 2007: page 8), the prior art does not teach or suggest this limitation within the claimed combination. The primary reference Drevfors does not suggest or enable Claim 71. This reference merely discloses a traditional bottle and is not concerned with or suggest the type of bottle claimed. The secondary reference to Helmut is combined with Drevfors to establish obviousness of the claim by disclosing a bottle with a membrane. Yet, Helmut clearly teaches away from Claim 71 by requiring multiple openings in the bottle. Therefore, the teachings of Drevfors and Helmut taken as a whole do not disclose or suggest the combination of Claim 71 to one of ordinary skill.

With respect to the last independent claim, Claim 72, at least one clear omission is the missing limitation of "moving the package through an inlet into an enclosure...out of an outlet from said enclosure to a filling location." As discussed in prior responses (August 16, 2007: pages 8-9), the prior art does not teach any such enclosure. Neither prior art reference, Drevfors or Helmut, set forth an enclosure as claimed. Further, Applicant is unclear as to which element of either of these references the Examiner is relying upon as the enclosure. Even if the entire processing plant (3) were to improperly be construed as an enclosure, the prior art would still not disclose or suggest Claim 72, as there would be no moving out of an outlet to the filling station. *See also*, the response of August 16, 2007, at page 9.

A review of the Final rejection at least on the basis of the above-described errors is earnestly requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Michael J. Bell', written over the typed name.

Michael J. Bell (Reg. No. 39,604)

Date: January 14, 2008

HOWREY LLP
2941 Fairview Park Drive, Box 7
Falls Church, VA 22042
(703) 663-3600